



THE CITY OF NEW YORK
LAW DEPARTMENT

100 CHURCH STREET
NEW YORK, NY 10007

GEORGIA M. PESTANA
Acting Corporation Counsel

September 16, 2019

By ECF

Honorable LaShann DeArcy Hall
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Gonzalo Cortes v. City of New York, et al.*, 14-cv-3014 (LDH) (RML)

Your Honor:

We are Assistant Corporation Counsels in the Office of Georgia M. Pestana, Acting Corporation Counsel of the City of New York, and the attorneys assigned to the defense in the above-referenced matter. We write in light of plaintiff's Trial Memorandum filed on Friday, September 13, 2019, (Docket No. 108) which includes an opposition to defendant's Trial Memorandum, filed earlier that day. Following a mistrial on the first day of trial, the Court directed the parties to file a brief regarding whether Officer Musa's position was permissible in light of the statements made in a summary judgment motion. The Court did not propose any time for an opposition, stating "I don't want responses, just give submissions. Just tell me what you all believe the law is." (August 12, 2019 trial transcript at 68:12-13).

Plaintiff has disregarded this instruction, as pages eight through fourteen of his trial brief are reserved for responding to defendant's brief, filed just hours earlier.¹ This was improper in light of the Court's instruction, and defendant requests that these pages be disregarded and struck. Should the Court be inclined to consider plaintiff's improper opposition, defendant is prepared to provide a response to plaintiff's single page of argument by Friday, September 20th.

¹ In fact, only one page of his brief is spent making an argument on the merits.

Thank you for your consideration herein.

Respectfully submitted,

/s/ /s/

Brachah Goykadosh

Erin Ryan

Assistant Corporation Counsels

Special Federal Litigation Division

cc: Baree N. Fett
 Raymond Panek
 Gabriel Paul Harvis
 Attorneys for Plaintiff
 Elefterakis Elefterakis & Panek
 80 Pine Street, 38th floor
 New York, New York 10005